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Free Parliaments :

OR, A VINDICATION

OF THE PARLIAMENTARY CONSTITUTION OF ENGLAND;

IN ANSWER TO
Certain visionary PLANS of modern
REFORMERS.

NOLUMUS LEGES ANGLIÆ MUTARI.

Barons Mottes



[Almon, John]
LONDON:

Printed for J. DEBRETT (Successor to Mr. ALMON),
Opposite Burlington House, in Piccadilly.

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FREE PARLIAMENTS,

Éc. Éc. Éc.

IT was the custom of our old writers, whenever they offered themselves to the Public, to assign their reasons for so doing in a kind of private address to the reader; which they called *the Proem*, and sometimes *Prolegomena*. With the reader's permission, I will follow the old custom, and though not a writer by profession, which he will instantly discover, as well by the style, as by the artless and unadorned manner in which the several facts are stated, and will acquaint him with my reasons for presuming to offer the following pages to his attention.

On the first day of the present session of parliament, (December 5, 1782,) the duke of Richmond, having spoken a little warmly against the present mode of representation; lord Sandwich said, whenever that matter came into discussion, the noble duke would find that there was a great deal to be said on the other side: upon which lord Shelburne threw out a sort of general invitation, saying
that

that it was a question in which the people were deeply interested, and that it would undergo a strict and dispassionate enquiry. He did not pledge himself (for in such a speech he could not) to maintain or oppose either side, because he was speaking of the propriety of going, at a convenient time, into what he called a full and impartial enquiry into the merits; and he said that he should be extremely glad, and that it would be very proper, to hear *every* opinion before the question was decided upon.

Having read, during the summer, many of the pamphlets and papers, which have been published by the different Theorists, on the subjects of shortening the duration of parliaments, and a general right of election, without being convinced of either the veracity of their assertions, or the cogency of their arguments, I amused myself in the country, during the Christmas recess, with writing the following pages—— So much having been written in favour of one side, it seemed to be at least not improper to try what could be said on the other side.— Who the writer is, can afford no satisfaction to the reader, and at present it is not material.

—— Hall,
20 January, 1783.

Of

Of the Duration of Parliament.

ANNUAL PARLIAMENTS.

Upon this point there are no less than three different opinions, amongst the Speculators for reforming the constitution.

The first, or majority, are for *annual* parliaments. The second are for biennial, and the third are for triennial.

The first say, that *annual* parliaments are an Englishman's birthright; and that any parliament chosen otherwise than for *one* year only, is an illegal parliament; that the electing of a member of parliament for a longer term than one year, is a deprivation, or suspension, of the exercise of the people's franchise; that no custom can justify such deprivation, or suspension; and that all laws made for continuing parliament beyond the term of one year, are so many usurpations of the *rights* of the people.

These are very bold assertions; and those who make them, would do well to consider seriously what they lead to.—To nothing less than a total abrogation of all the laws, made by, and all other proceedings of, every parliament, after the first year from its election. All property of whatsoever kind, created or transferred, by virtue of every act of parlia-

ment, so made, is annihilated, or rendered a nullity. All offences constituted criminal, by laws so made, as forgery, &c. cease to be offences by the statute. All taxes levied by such laws, are illegal ; as well as all the applications of the money. In short, these assertions are of such an extent, that they compass every thing ; they overthrow all property, and all government. Illegality being the foundation, or ground proceeded upon, the indisputable conclusion is, that whatever has been transacted by, or under, an illegal authority, must be void. We might as well reason upon the validity of acts of parliament binding the American colonies, after acknowledging those colonies to be independent states.

But what shall we say to these Speculators, if upon a slight examination into the authorities, we find that this claim of *right to annual* parliaments, is not founded in truth ; that it is an imposition upon the public ; that it is a phantasma of their own brains ? I am afraid that such discovery will give us cause to arraign their motives ; for it is barely possible to ascribe all that they have written upon this subject, to ignorance.

It is of no importance to the enquiry to search for the customs of parliament before
the

the Norman conquest. They cannot be ascertained with precision ; and if they could, the Conquest gave a new birth to the constitution, by which they were all obliterated. What had been practised by Ina, was not followed by Egbert : What had been done by Athelstan, was not imitated by Ethelred. The government in those early times was always temporary. The divisions made of the island, the irruptions of foreigners, and many other causes, kept it constantly fluctuating. No periods for the certain duration of parliament, can therefore be derived from the crude and unsettled customs of those ages. William the First, sat four years upon the throne before he called a parliament. Mention is made of the laws of this reign, but not a syllable of the duration of parliament. Magna Charta is wholly silent upon this point of duration.

The convening of parliament was indisputably a branch of the prerogative even in those early times : and the barons did not touch it. They only stipulated, that no money should be raised, except for the king's ransom, but by their authority. *Nullum scutagium vel auxilium ponatur in regno nostro nisi per commune consilium regni nostri, nisi ad corpus nostrum redimendum.*

If there had been any *right* to assert upon the point of duration, it is not to be credited, that the barons could have been silent upon it. But the other great point, viz. *representation*, was unknown in those times. The only persons summoned to parliament were the lords and clergy. It is the stronger presumption therefore, that the barons would not neglect to state their own right to *annual* parliaments, if they had had such a right.

As to the number of parliaments held, and the periods of them, by the several kings, from the Conquest to Henry III. in whose reign representation commenced, those circumstances prove nothing, one way or the other ; because in all the parliaments held, (whether they were called Wittena Gemotes, Great Courts, or otherwise) there were no representatives of the people. Each person summoned was in right of his rank. He represented nobody. He acted for himself ; and was answerable to none. Nobody could divest him of his seat, but the king alone ; by virtue of whose summons he came to parliament.

The first summons of representatives of the people, was in the year 1264, the 49th of Henry III. (the cause of which is explained
in

in another place, vide page 32,) and consequently this was the first time of *electing* them. This summons was similar to that which had been used for summoning the barons ; but in a little time the novelty became modelled ; and *writs* were issued. The first were to counties ; and afterwards to some principal cities and towns. There was no law made respecting the *duration* of parliament. Nor can any argument be drawn for, or against, the question, from the custom of those early times ; for there was no regular custom. Some years parliament sat twice in the same year ; and at other times there was no parliament for several years. This irregularity caused a statute to be made in the 4th of Edward III. for the holding of parliaments annually. It is here that the mistake (if it has not been wilful) seems to have been made in the *claim* to *annual* parliaments. The claimants assert, that *new* parliaments were called annually in this reign, by a statute which has not been repealed. And upon this assertion, they build their hypothesis, that the people have a *right*, by law, to elect a *new* parliament every year. And it must be confessed, that they have been wonderfully assiduous in plundering old writers to render this problem specious. It will be difficult,

difficult, if not impossible, to undeceive men, who have laboured hard to impose upon themselves. But had they read the statute throughout, or consulted the subsequent statutes of the 36th of Edward III. cap. 10; or the 2d of Richard II. nu. 28; they would have seen their error. Neither the 4th of Edward III. nor the two subsequent statutes above named, authorize, or even mention, that a *new* parliament shall be elected annually.

All the three statutes were made for a very different purpose; and that purpose is expressed in them. There can be no doubts raised upon the subject, because the thing is perfectly clear: construction is out of the question. The purpose, and power of those statutes, are, purely *for the redress of grievances*. They say, "That parliaments shall be *held* annually, (not a word about *new*) and that they shall not be prorogued, or *dissolved*, until *all* the petitions and bills before them, are answered and redressed." This, or rather these laws, are no more, than obliging the king to order the parliament *to meet every year*; which is the custom of the present day. No person wants to be told, that if parliament were not, in the present reign, to meet every year, the nation would be in confusion. The annual laws since the Re-
volution

volution have made it indispensable. king cannot continue the government beyond *one* year, without the assistance of parliament. The most essential taxes, the land and malt, are given for only *one* year; the army and navy are voted only from *year to year*. So that these boasted laws of old times, contain no other privilege, or liberty, than what is better established by the wisdom of the present age.

Formerly our kings dispensed with those old laws; for when they did not want any thing of parliament, they seldom cared to be troubled with it. The Whigs at the Revolution, cannot be charged with either ignorance or negligence. They ascertained all the rights of the people, and with equal justice respected the just prerogatives of the crown. Among these prerogatives that of dissolving parliament was one. The Bill of Rights is therefore silent upon the subject. And the old statutes say no more, than that it shall not be dissolved until the public business is finished. So that if the public business took up one, two, or more years, the king was not to dissolve them until it was all gone through. There was another excellent law made soon after the Revolution (the act of Settlement), which collate-

rally

rally strengthens the argument; for as the king can do nothing but by the advice of his council, that law makes his counsellors responsible for the advice they give him. If they advise the king to dissolve the parliament at an improper season, they must answer for it.

Some of the advocates for *annual* parliaments, seem to have been aware, that the ground which their associates had chosen in the old statutes, was not tenable without an *additional* argument. Had they indulged in only plausible deduction, and inference, their ingenuity might have been admired, though their design might have been disapproved. But their zeal has precipitated them into positive assertion; and they have asserted, that all the former parliaments sat only *one* session; that at the end of every session the parliament was dissolved; and therefore that the laws for the meeting of parliament annually, went equally to the electing of a *new* parliament annually.

Where the authorities are for these assertions, I have not been able to discover. To me they appear to have no foundation in truth. But the candid reader, who perhaps has neither the opportunity, nor the passion, to search the volumes of antiquity, may with
some

some propriety ask, If there are any proofs of the contrary being the fact? I answer, Yes; and of a remoter date than the first triennial act.

The parliament which met at Westminster on the 17th of September 1397, 11 of Richard II. (when all the statutes abovementioned were recent in every one's memory) met again at Shrewsbury on the 29th of January in the following year; and held its *second* session there. See Cotton's Abr. pp. 367, 371. Tyrrel, p. 964. Rymer's Fæd. tom. 8, p. 21.

The Journals of the Commons commence with the reign of Edward VI. The first volume opens with the *first* session of the first parliament of that king; which lasted from November 8, 1547, to December 23, 1547. The *second* session (expressly distinguished by the word *second*) from November 24, 1548, to March 14, 1548-9. The *third* session (in like manner distinguished by the word *third*) from November 4, 1549, to February 1, 1549-50. The *fourth* session (in like manner distinguished by the word *fourth*) from January 23, 1550, to April 15, 1552; when this parliament was dissolved. See Vol. I. p. 23.

The *first* Parliament of Queen Elizabeth

met on the 23d of January 1558-9, and was dissolved on the 8th of May in the same year. She called no parliament until the 12th of January 1562-3, when the *first session* of her *second* parliament began, and continued until April 10, 1563; at which time it was prorogued to October in the same year; and afterwards was prorogued five more different times; so that the *second session* did not begin until September 30, 1566; and continued, till January 2, 1566-7, when it was dissolved. Her *third* parliament was not called until the 2d of April 1571, when it sat only till May 29 of the same year; and was then dissolved. Her *fourth* parliament sat on the 8th of May 1572, the *first session* of which lasted only till 30th of June of the same year. The *second session* (of this, her *fourth* parliament) did not begin until the 8th of February 1575, and continued to only March 15 of the same year. This parliament, says Sir Simon D' Ewes, page 204, was prorogued at least twenty-five times. The *third session* did not commence until January 16, 1580, and continued to March 18 of the same year; and after seventeen more prorogations, the parliament was dissolved in April 1583.

The parliament in the reign of James I. sat
about

about eight days in three years, and was not dissolved until the ninth year of his reign.

Many more proofs might be given; but these are enough to shew, that the assertions of former parliaments sitting only *one* session, and of their being dissolved and elected annually, are not supported by either law, or custom.

In 1641 the first triennial act was passed. This act did no more than revive the *principle* and *spirit* of the old statutes, which were become obsolete. The act does not say that a *new* parliament shall be *elected* every three years, but “ That there shall
“ be a session held once in three years, at
“ least, though the king should neglect to
“ call his parliament, in order to prevent
“ the inconveniences arising from too long
“ an intermission of parliaments.” Had there been only a supposed *right* to a new election every year, or every three years, will any body believe, that the Commons of that day, would have neglected to mention it, after a twelve years government of the kingdom *without a parliament*, a circumstance which at that time must have been full and strong in all their memories? It is impos-

sible. They had no such conceptions or opinions about *rights*.

In 1664 this act was repealed by the long parliament of Charles II. because there was a provision in it, which was considered to be an invasion of the prerogative of the crown, from the construction which some speculative men had put upon it; viz. that the parliament might meet whenever the necessities of the kingdom required it, though the king neglected to call them. But at the same time, to shew clearly, as well as repeatedly, that the constitution does not permit the king to govern without a parliament, they immediately passed a bill, enacting, “ That
“ the sitting and holding of parliaments shall
“ not be intermitted above three years at
“ the most;” which received the royal assent on the 5th of April 1664.

In the year 1677 the House of Lords sent the duke of Buckingham to the Tower, for asserting, the parliament was dissolved by the late prorogation for fifteen months, which, his grace said, was contrary to the statutes of 4 Edward III. and 36 Edward III. See the Lords Journals, vol. 13, page 39.

The last authority I shall quote upon this point, is, Mr. Justice Blackstone, who, in his
Com-

Commentaries upon the Laws of England, says, (after shewing “ That no parliament
 “ can be convened by its own authority, or
 “ by the authority of any, except the king
 “ alone”) “ That by the antient statutes of
 “ the realm, he (the king) is bound to con-
 “ voke a parliament every year, or oftener,
 “ if need be. Not that he is, or *ever was*,
 “ obliged by these statutes, to call a *new*
 “ parliament *every year*; but only to permit
 “ *a parliament to sit annually* for the redress
 “ of grievances, and dispatch of business, if
 “ need be. These last words are so loose
 “ and vague, that such of our monarchs as
 “ were inclined to govern without parlia-
 “ ments, neglected the convoking them,
 “ sometimes for a very considerable period,
 “ under pretence that there was no need of
 “ them. But to remedy this, by the statute
 “ 16 Car. II. c. 1. it is enacted, that the
 “ sitting and holding of parliaments shall not
 “ be intermitted above three years at the
 “ most. And by the statute 1. W. and M.
 “ 11. c. 2. it is declared to be one of the
 “ rights of the people, that for redress of all
 “ grievances, and for the amending, strength-
 “ ening, and preserving the laws, parliaments
 “ ought to be held frequently.”

This

This indefinite word *frequently*, occasioned the act commonly called the triennial act, which passed in 1694; and which enacted, "That a *new* parliament should be called every third year, and that the present parliament should be dissolved before the first of January 1695-6." This is the first law that limited the prerogative to any period of duration.

I will make but one more observation upon this disagreeable thesis; which shall, in as few words as possible, reduce the prerogative of the king, and the claim of the Speculators, to a very simple alternative.

If the freeholders, and freemen, have a *right* to an annual election, the king has no right to dissolve the parliament; because the dissolution would take place at the end of the annual session, as a thing of course. If the claim to such *right* is just, the prerogative to dissolve whenever the crown sees fit, is an usurpation. If the prerogative is just, the claim to such *right* is an attempt at usurpation.

TRI-

TRIENNIAL PARLIAMENTS.

The advocates for triennial parliaments are not many, and those for biennial are still less in number. Upon the claim of *right* they are totally silent, and only say, that they conceive frequent elections would be for the good of the nation. An argument modestly urged will always obtain attention from Englishmen. Moderation and candour gain and win upon our judgment, when the claim of dogma, and austerity of assertion, excite revolt in our natures, because they seem to doubt the competency which every man enjoys, to form and adjust his own opinions.

It is to be remembered, that when the law for triennial parliaments was in force, the manners of the lower people were not so dissolute as at present ; consequently that an election in those days was not so corrupt and expensive as in ours. A frequent appeal to the judgment of men of virtue and understanding, is, in some cases very proper, and necessary ; but before we admit the propriety, or necessity, in the important concern of frequently electing members of parliament, we ought to be confident of the fact, that is, the virtue ; and if this is not established, the
 opinion

opinion that frequent elections are beneficial, is not supported; because a frequent appeal to the vicious habits of the people, can neither be serviceable to the country, nor to individuals. On the contrary, such frequent appeals become not only an approbation, but a confirmation also, of the vices connected with them. I am not insensible, that it may be said it is the candidate's own fault if he expends his money, that he ought not to do it, that he ought to be chosen freely, and without expence. This is very fine language in theory. But bring it into the scenes of real life, and see how it will operate. I will state a late instance of it; which is better than a thousand arguments drawn from speculation. On the day of nomination, previous to the last contested election for the *County* of Hertford, it was proposed, in order to conduct the election with perfect freedom and impartiality, by George Byng, esq. John Scott, of Amwell, esq. and other gentlemen, that the candidates, who were lord Grimstone, W. Plumer, esq. and T. Halsey, esq. should not open houses, &c. such practices being disgraceful to the freedom of election, and the independence of the county. Lord Howe, lord Melbourne, and a long list of gentlemen, approved of the

proposition ; but the moment it was known to the freeholders present, who were very numerous, there was a general cry from all quarters of *No starving ! no starving !* It was in vain to oppose it. The consequence was, that the election was conducted as all other contested elections are.

In every county and open borough in England, it is the same. He cannot be a friend to the independence of parliament, who wishes to see these scenes renewed every year, or every three years. The consequence of such frequent elections would be a total expulsion of the country gentlemen from parliament, in a very few years. The future contests for members of parliament would lie between the corruption of the minister, and the corruption of the electors ; which would open a wide door to adventurers, of all descriptions ; and in those places, where the minister could not nominate, as the lord warden did for the Cinque-ports until the Revolution, he would make an easy purchase of the half-ruined successful candidate.

The great and respectable barrier (the country gentlemen) that now forms the independence of parliament ; that stands be-

tween the ambition of a minister, and the depravity of an elector ; that has preserved our constitution through so many ages ; that has smote tyranny in all her holds ; being removed ; it is not possible for the human mind to fancy a situation, more abject and slavish, than that of such a House of Commons.

I remember to have seen, in the London Evening Post of the 13th of September 1770, a kind of protest against triennial parliaments. Whoever the writer is, I hope his candour will lead him to excuse my transcribing a part of his paper.

“ Because the bulk of the common people, were there frequent elections of members to sit in parliament, would become so idle, drunken, and immoral, from the constant treating, eating, drinking, bribing, &c. of the candidates, as to be actually good for nothing, and be altogether unfit to supply the navy or army with sailors and soldiers ; and also be incapable of undergoing the toils of agriculture, or serving their country in any of the useful and laborious employments.

“ Because such frequent elections would create perpetual animosities between the principal gentlemen in every county, and beget and
keep

keep up such feuds amongst them, as would be very detrimental, not only to the peace of private families, but to the service of the public.

“ Because, if parliaments were triennial, there would be but one year in the three, that the business of the public could be properly transacted in parliament; for the first session of it would be totally taken up in settling contested elections; and, during the last, the minds of the members would be wholly engaged in canvassing and making interest for another election.”

“ If a parliament, says another writer, was to continue no longer than one session, the representatives of the people would not have time sufficient to pass all necessary acts, and do the necessary business of the nation; as the greatest part, if not the whole, of one session would be taken up in considering and settling the rights of contested elections. . . . Annual parliaments would create an annual confusion in the kingdom, and beget a perpetual disorder in it.”

There is an opinion, that triennial parliaments would weaken the confidence of foreign states in our government: that a quick

change of parliament might render many, if not all the measures of ministers, uncertain and unstable; because the next parliament might condemn, what the last had approved; and therefore that all engagements, especially those with foreign courts, would stand upon a very precarious tenure. It is true, that this is the case, in some sort, at present; but there is a great difference between a parliament chosen for seven years, and one chosen only for three years. Measures are not broken, or revived, after a seven years establishment, or discontinuance, with the same facility, as after only three. Let us illustrate this point. Suppose the parliament had been dissolved at the end of the second session, after the introduction of Mr. Grenville's excellent bill for trying the merits of contested elections. Those gentlemen who remember the state and temper of that time, will not dispute the probability, that a *new* parliament might have repealed the law. But the *same* parliament continuing who had repeatedly experienced the wisdom and justice of the act, and who had bestowed upon it the highest encomiums; it was made perpetual. One more supposition will illustrate the point more clearly. Suppose the present
parliament

parliament to have been dissolved in the month of August last, and the *new* parliament to have met in November last, and lord North to have been appointed minister, either on, or a little previous to the meeting of the *new* parliament——*might he not have revived the American war?*——A *new* parliament might have recommenced the war, but the present having condemned *that* part of it, could not, with any appearance of consistency, have consented to the revival of it. Frequent elections may as frequently change the system of government. No minister could undertake a great measure, which required time to mature. The original supporters of his system might be changed; and new men from ignorance, or other causes, might disapprove of it; consequently the government might be kept in continual confusion.

Of

Of Representation in Parliament by
COUNTIES.

The advocates for the reform of parliament, as they term it, do not stop with a claim of right to *annual* parliaments; but they demand a *farther alteration* in the fundamental constitution of parliament itself; which is nothing less than that the right of voting, or electing members of parliament, shall be extended to *all* the inhabitants of the kingdom, of whatsoever degree or condition: and some of these advocates proceed farther, and say that a certain number of boroughs shall be disfranchised, and one hundred knights added to the Counties. It is a little paradoxical, to demand a franchise for those who never enjoyed it, and deny the exercise of it in those who have supposed it to be an inheritance. It is holding liberty at the will of another, which Sir Edward Coke says “ is a tenure “ not to be found in all Littleton.”

Upon what authority our Speculators make these demands, I have not been able to discover. To me, these demands appear to be not less dangerous and mischievous, than the claim to *annual* parliaments.

Our Speculators say, that the Counties are
not

not adequately represented ; and therefore, they are preparing to enforce a proposition, to add one hundred knights, in such proportion to each County as they shall think fit.

Will these people be pleased to recollect a very important fact, in the construction of our parliamentary constitution ; which is, that representation did not originate in the justice of the thing itself, but in the policy of the person who gave and authorized it.

Before the reign of Henry III. there were no representatives elected by the people—and yet every part of the kingdom was represented in parliament, by the barons, who were the owners of the soil. William I. having assumed the regal state, as his own right, treated all who had opposed him as rebels, whom he dispossessed of their lands ; and distributed those lands amongst his friends, who held them of the crown by the service of a certain number of soldiers, in case of invasion or rebellion ; and these, his friends, enfeoffed their own immediate followers, with some portion of what was assigned to them, under reservation of such service. These chiefs were called barons, and their estates baronies or honours (*vide* St. Amand).

As every spot of land was in some barony, every part was represented by its baron. In some places the same baron had several baronies, and he represented them all ; he could not divide his person. The principle as well as the fact, are continued to this day. A gentleman has two or three manors in the same County, upon each of which his steward holds a court baron ; he can vote for only one of these at the same election ; he has not a voice for each. But admit the innovation that his copyholders have a *right* to vote, and he will, as lord of the manor, begin to think that he has a *right* to a seat in the House of Lords : and many better authorities, and much stronger arguments, might be offered in support of his claim, than the Speculators bring in support of equal representation, as they call it.

It was after the battle of Lewes, 1264, when the barons had got Henry III. in their possession, that they began to form a new system of government ; and resolved to have it confirmed by the parliament ; which was to meet on the 22d of June. The posture, says the historian, of the affairs of the kingdom, rendered the calling of this parliament liable to many difficulties. Indeed it was
done

done in the king's name, who could not oppose it. But the victorious barons were not willing those of the contrary party should be summoned, because they were still in arms against their country. On the other hand, a parliament consisting only of part of those who had a right to sit there, would seem to want full authority. These difficulties put the barons upon contriving how to make this assembly more general, and give it a greater air of authority. To this end, they made the king sign commissions, appointing in each County, certain officers called conservators, who were invested with great power. The earl of Leicester, who was at the head of the victorious barons, next obliged the king to sign orders to these conservators, to send up four knights in each County to sit in the ensuing parliament, as representatives of their respective shires. In the next parliament it was altered to two knights for each county; this number has continued ever since, without any complaint, until the present time, of inadequacy, or disproportion in representation. Thus did representation commence; not, as was observed before, in the justice of the thing, but in the policy of the man who gave it, substituting these knights of the shire, in

lieu of those barons, whom he did not chuse to summon. To claim representation upon any other ground, is to go from the truth ; and the practice of all our king's reigns, from Henry III. to Charles II. puts the fact out of dispute ; for it was always in the prerogative to summon representatives from whatever places the crown thought fit ; and in some places the elected and electors petitioned to be excused.

“ Let me examine for a moment,” says Mr. T. Pitt, in a most excellent speech upon this subject, printed in the *Parliamentary Register*, Vol. 7, for 1782, page 128, “ what is the clamour against the present state of the representation ; in what it is supposed to have departed so widely from its first principle ; and in what that defect consists which is supposed to cry so loudly for reformation. Theorists, it seems, have endeavoured to establish as a maxim, that that nation only can be free where no individual in it is governed but by laws to which he has given his assent in person, or by the mouth of one he has personally deputed to give that assent for him : freedom therefore is stated to consist in equal personal representation. Good God, sir, is that the principle upon which this House has been established

established by our ancestors ? Can any such principle be applied to our constitution ? Equal representation, sir, when out of a mass of six or seven millions of inhabitants, not perhaps three hundred thousand have been trusted with the privilege of voting for representatives ! What has been the history of parliament, at least the history of the House of Commons ? The first writs, if I mistake not, in the reign of Henry III. summoned to parliament none but knights of the shire ; they were considered as a complete representation of the people. But how was their equality adjusted ? By assigning the same number of representatives to the County of Rutland, as to the Counties of Devon, Somerset, Lincoln, and York. Is there scarcely a greater inequality to be stated in the present representation ? To these, sir, which I have ever thought to be the true representatives of the people at large, were added the great cities, and by degrees large towns, places of note, and even inconsiderable villages. By what rule they were added it is difficult to say ; certainly not by any rule of equal representation, or the uniform importance of the places that were honoured with this privilege. The prerogative at that time was held competent to grant

such privileges, as it granted the privileges of corporations and immunities as it thought expedient; and such beneficial or honorary privileges have ever been held among the most sacred rights that we possess. Is it fit, is it expedient, sir, to try these chartered privileges at this time of day by a *new* rule that never did apply to them? ”

It is demanded to reverse all the rules of our ancestors. In order to comply with this demand, the first step to be taken must be a total repeal of that wise and salutary statute made 8 Henry VI. c. 7, to prevent *tumultuous* elections. Our ancestors limited the right of voting for knights of the shire to freeholders of 40s. per annum; which bishop Fleetwood states as equal to 12l. per annum in the reign of queen Anne; and therefore it may be fairly said, that the right of voting, so far from being abridged, is extended. I believe it will hardly admit of a doubt that there were more freeholders under 40s. per annum in the reign of Henry VI. than there are under 12l. in the reign of George III. and in the same propriety of hypothesis we may say, that there are now very few, if any, freeholders, who have not more than 40s.
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per annum ; consequently *all* the freeholders of our time possess the right of election : but if the *principle* of the statute of Henry VI. were pursued, and the right of election limited to 12l. per annum, it is possible, that sometimes a better choice would be made, and it is certain, that contested elections would not always be so *tumultuous*, as at present.

Whatever was the right of election before the reign of Henry VI. is not precisely known ; but it is certain, that the elections were *disorderly*, and *outrageous*, owing to *excessive numbers* of people. To put the right of election upon a constitutional footing, that is, to vest it in those who were least likely to abuse it, and to prevent those disorders which are almost inseparably incident to *great multitudes* of low people, a petition was presented to parliament, stating and soliciting a remedy for these grievances. In compliance with this petition, the above-named statute of Henry VI. was made ; which says, “ That whereas knights of the shire had of late been chosen by outrageous and *excessive* numbers of people, and of *small substance*, for the future, the said knights shall be elected in every county, by people dwelling and resident in
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the said counties, whereof every one shall have in lands, or tenements, to the value of 40s. by the year at least," &c. This statute is founded in the best and purest principles of freedom. Nothing can be more chaste in idea, than placing the right of election, where it was least likely to be abused. But our modern innovators, whose notions of virtue are formed upon speculations in their closets, and who seem to know little or nothing of the world, are aiming to pull down and destroy all the barriers of society and freedom raised by the wisdom and spirit of our ancestors; and to throw the whole people into *one* general mass of confusion, tumult and anarchy. Having read all their arguments, I beg leave to say, that the most acute reasoner of them all, cannot shew that their speculations tend to any thing else. In the American Monitor, written by Mr. John Dickenson, of Pennsylvania, who a few years ago, published the Farmer's Letters, there are a few lines, which this part of the subject brings to my memory: " Gods, are we men, and shall we suffer the foundation to be laid for miseries like these; shall we look tamely on while the yoke is fixed upon us, under which we must for ever groan? We and our posterity

posterity for ever." Page 78, printed at Williamſburgh in 1769.

If this rule of election had not been thought wiſe and juſt, at the time it was eſtabliſhed, it would have been complained of. But ſo far from any complaint being made againſt it, upon the incorporation of Wales, 23 Henry VI. it was confirmed, and extended to that country; where freeholds being proportionably leſs in number, and money of higher value, the limitation might perhaps, *pro rata*, have been fixed at 20s. for that principality. And this limitation was *again* confirmed, for the ſame wiſe and obvious reaſons, 35 Henry VIII. in the act allowing knights for the county of Cheſter; which Richard II. had made a county palatine, when he held the *ſecond* ſeſſion of one of his parliaments at Shrewſbury. And this limitation was *again* confirmed, by an act of the 25th of Charles II. allowing knights for Durham, another county palatine; which had been hitherto exempted, ſays Browne Willis, vol. II. p. 513, "owing to the great power of the biſhops, to whoſe entire juriſdiction this whole county was ſubordinate." By ſeveral more acts of parliament it is recognized, and by the bill of rights.

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The case of Durham was attended by a circumstance, which marks the sense of parliament upon this very point, of *equal* representation, in the strongest manner. There were Speculators in those days ; but the sound judgment of parliament rejected their reveries. When the Durham bill was engrossed, Sir Thomas Meres (March 26, 1668) moved “ That the shires may have an encrease of knights, and that some of the small boroughs, where there were but few electors, may be taken away, and this to make part of the Durham bill.” Mr. Vaughan said, “ If we have all our members here, we have no room for them. If we bring in more members, we may, by the same reason, multiply them to as many more. The county of York has many, but they may as well put in for knights of every riding.” See Anchitel Grey’s Debates, vol. I. p. 120. But the House, rather than agree to this, threw out the *whole* bill, upon a division, as the least evil. See Commons Journals; vol. IX. p. 69. In March 1673 the Durham bill was revived ; and being now confined to the single object of the county, it passed. I am ashamed to trouble the reader with so many quotations ; but the subject compels me to it, and I must give credit to his candour for my pardon.

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From all these authorities, and many more, which might be given, it may be presumed, that some stronger and more solid marks of disapprobation, must be shewn against the present system of county representation, than the whims and speculations of visionary men, before parliament will consent to pull down, and remove, one of the great land-marks of our constitution.

Mr. Cowper, afterwards earl Cowper, said upon the Aylesbury case in Parliament, anno 1704, “ The right to elect a parliament-man is a distinguishing character *from the vulgar.*” So great a lawyer would not have made so pointed a distinction, if he had not conceived it to be strictly constitutional, as well as legal. And Sir Joseph Jekyll calls it *common law*. Do the Speculators mean to demand a repeal of the common law? Are all the people of property, who having most to lose, are most deeply interested, to be disfranchised; or, what in this case would be the same thing, to be overpowered, by the admission of people of little or no property, and who, being the majority, would decide every election in favour of the candidate, who gave them the highest bribe? It has been often said, that the limitation of 40s.

per annum is much too low; that the right of election for knights of the shire ought not to be in persons of less than 20l. or 25l. per annum; the voters of 5l. 10l. &c. expecting to be treated, to be carried to the place of election, and home again. This is an expence to the candidate, and sometimes a very great one; and whatever is an expence is a species of corruption. But our Speculators wish to extend the right of election to *all* persons whatever. Would not this make all elections *tumultuous* and *outrageous* to the last degree? Most certainly. And if parliaments were made *annual*, according to their other demand, would any persons of decency attend such elections? No. These elections would be constantly made by the lowest sort of people, who lived in and near the county town. The *right* of election might indeed be extended to many, but the *exercise* of it would be confined to a very few,

The first consequence of such a mad and wicked measure, would be a dislike of parliaments by all the men of sense and property in the kingdom. Parliaments being elected by a privilege, not founded upon, but distinct and separate from the interest of the country, gentlemen of property, could have

no confidence in it ; and many of them, it is more than probable, would desire to be relieved from the dangers of it. At all events, it could subsist no longer than while the crown thought fit. The constitution would be at an end:

Sweden lost her liberty, the other day, not by the consent of her nobles who risked every thing to preserve it, but by the common people abandoning their own cause. Had they supported the constitutional orders of their own senate, the king's design must have miscarried. The celebrated Cortez were destroyed by the venality of the common people. Had those assemblies been supported by the people, Philip could not have abolished them. It has been in all ages, and in all countries, the same. After the expulsion of Tarquin, the senate would have kept the government of all affairs in their own hands ; but the plebeians made the greatest pretensions to be entirely free. What was the event ? The State fell into confusion, and tyranny was established. Did the common people of this country restrain Charles the First ? Did they support William the Third ? Charles or the Parliament, the Pretender or William, were the same to them. The

judgment of measures, and the controul of the executive power, to preserve true liberty, must be committed to able and adequate delegates. This is the happy temperment of our constitution. The delegates, or members of parliament, are chosen by *free* men, who have some property; and the member himself is obliged to shew, that he is properly qualified, by possessing a larger property. It is not in human nature to frame better distinctions. The component parts thus form a system, that has withstood the violence of civil wars, and has been the admiration of ages. Yet we are called upon to destroy this wise plan of our ancestors, and adopt the visionary project of a few misanthropes.

The sect of Speculators, like other sects, who, when they have separated from the national establishment, subdivide amongst themselves, are not unanimous in their demand of a general right of election. A part of them, consisting almost entirely of the few persons of consideration amongst them, are for adding *only* copyholders to the right of election for counties. These gentlemen undoubtedly perceive, that the claim to a *general* right of election is untenable; that it is a point so extremely

tremely absurd and futile, they are under the necessity of separating from their *reforming brethren*, and they confine themselves to the simple addition of copyholders *only*. Yet these gentlemen cannot be insensible, that the admission of copyholders to the right of election, will open a door to leaseholders to put in their claim to the same privilege; and after them, to all other persons. The distinction made of copyholders only, will not prove a sufficient barrier against the inundation of claims that will follow. A leasehold for ninety-nine years, or other long term, is as good a tenure as a copyhold, and in some instances better; for a copyhold may lapse to the lord from many causes, according to the custom of different manors; besides fines, herriots, &c. upon death, or alienation, in the course of ninety-nine years. And renewable leases, are in many cases better than copyholds. The argument that will hold for one, will equally hold for the other; nor will there be much ingenuity required to extend it a little, in order to include the remainder of the non-electors. But as copyholders *only* are spoken of, it will be proper in this place to take notice of them *only*; and this being a point which lies in a

narrow

narrow compass, I shall trouble the reader with but a few observations upon it.

And first, the thing appears to me to be impracticable. The tenure and the franchise are at variance. They are distinct matters; and being perfect opposites, they cannot be brought to partake of each other. One is *freedom*, the other *subjection*. Nature cannot produce two things more unlike. In order to give franchise to the copyholder, the tenure of the land must be changed; the customs of all the manors in England must be altered. The tenure of copyhold cannot admit of franchise, in any way, or for any purpose, unless the words *homage*, *fealty*, *suit* and *service*, are erased out of the copy of the tenant's admission. The holder cannot be called *free*, whose title is under any, or all these conditions. Perhaps, I shall be told, that these words are words of course, like *malice aforethought*, in an indictment for murder; but in cases where penalties are annexed to the words, according to the tenure of all copyholds, in all manors, I must beg leave to say, that such words, or any other words of like import, are not words of course, but are expressive of *conditions*; which, if not complied with, the custom of the manor is not preserved;

preserved; and the lord's property is injured. Fealty is often respited, and always paid for. If a copyholder has an estate in a manor, in which, according to the custom, houses only, and not land, are heriotable; and the tenant thinks proper to take down his house; his right of voting, according to these gentlemen's ideas, may exist, if his land alone is worth forty shillings per annum, but the lord will have lost his herriot; and yet the tenant may persevere in his infraction, because he has not lost his right of election, which, in the opinion of the Speculators, is paramount to all other rights. The custom of those manors in which the tenant cannot take down his house, hath hitherto proved a favourable circumstance to population; for gentlemen of large property, having of late years, reduced the buildings upon their estates, by laying different farms together, and suffering those houses not occupied by their immediate tenants, to either tumble down, or their materials to be used in the repairs of other buildings, these copyhold houses, which the tenants are obliged to keep up, have afforded comfortable asylums to the day-labourer and his family. And here I must beg leave to observe again, that the customs of

manors

manors being the *tenures* of copyholds, no law, founded in common sense, can give a franchise to such tenures. To give the right of free election to persons without annexing the tenure, would be a refinement that has not hitherto appeared in human wisdom; and to give a right of election, or, in other words, to give such a franchise to such a tenure, would be to confound all distinctions between superior and inferior, independence and subordination. Our ancestors held the right of election so sacred, that they confined it to only *free-holders* and *free-men*; they never conceived, that by the most subtle construction, copyholders could, under any pretence, be admitted to that right. The superiority of the freehold would have been annihilated in such an innovation. The old statutes, and Magna Charta, in which so much mention is made of *freemen*, clearly point the distinction established by the wisdom and virtue of former ages.

There is no way in which a copyholder can be released from the obligations, inseparable from his tenure, which he owes to his lord, but by enfranchisement; and this enfranchisement is undoubtedly to be purchased in those places, where the lord is *willing* to sell;

sell; by paying the quit-rent for a certain number of years, and other sums for fines and herriots, as may be agreed upon; according to the extent of the property desired to be enfranchised. But if a general sweeping law, *compelling* every lord of a manor to enfranchise his tenants, in order that they may vote for knights of the shire, were to be made, by the present, or any other parliament, I believe it would be found not less difficult to enforce, than we have found the attempt to enforce taxation in America.

The Yorkshire gentlemen, who are possessed of manors, ought to set the example by enfranchising their own tenants; and it would shew the sincerity of their professions, if they did it gratis. But to throw the thing upon parliament, or to desire parliament to do it, seems to be nothing less than desiring parliament to throw the kingdom into confusion; to abrogate the custom of, perhaps, every manor in England. In such a case, would it be surprising, if lords of manors began to feel their own consequence? If parliament destroyed their tenures, would they not complain of parliament? Would they not begin to search into, and revive the *rights* which were formerly *annexed* to their estates? If their tenants had a

privilege to elect the lesser barons, *i. e.* the knights of the shire, would not they begin to think, that being the greater barons, they ought to be summoned in person to the House of Lords? And might not many extracts be made from Coke, Selden, Elsyng, Hakewell, Dugdale, Maddox, St. Amand, Pettus, &c. in favour of their claims? And lastly, might it not be plausibly urged, that to preserve their estates, and the kingdom, from utter ruin, by a slavish parliament, who had betrayed, or abandoned the duty they owed to their country, they found it necessary to resume the long-neglected exercise of their parliamentary rights and functions; and to outvote (or vote out) the servants of the crown, in order to maintain the independence of parliament?

Take away the copyhold tenure, and you take away the lord's property; his courts, his herriots, his fines, his quit-rents, the possibility of lapses, &c. Omnipotent as parliament is said to be, yet I doubt the power of parliament to do this. Even the bankrupt laws, which are founded in the purest principles of justice; laws, which were unknown in the feudal times of our ancestors, which were begotten by modern trade, and matured
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by modern dissipation, copyhold estates are not subject to them, only during the bankrupt's life. A freehold, or a leasehold estate, the assignees may sell; but a copyhold they cannot. And why is this? Because such subjection might eventually deprive the lord of his right. If the Whigs, who, at the time of the Revolution, settled and ascertained the rights of the subject, had conceived that copyholders ought, or could be included, in the right of election, lord Somers, and the other great men of that day, who drew up the Bill of Rights, would not have neglected it. Some of the Speculators pretend to be the posterity of those Whigs—*Jed quantum mutati ab illis!*

I will make one short observation of a contrary tendency; which is, that the admission of copyholders to the right of electing will open a door to infinite abuse. Let us suppose a possible case. A gentleman has a copyhold estate of 500 acres, which is let for 300l. per annum: he wishes to carry a favourite point at an approaching election. He makes a nominal sale of this estate to one hundred and fifty persons, and divides it accordingly. A special court is called, for the purpose of admitting these purchasers. I will beg leave to ask any lawyer, whether the

steward of the manor can *refuse* to admit them? He cannot. After the admission, no proofs against the titles can be offered, but such as would go equally against the lord's own title. In a word, this matter is liable to the most effectual and extensive collusion. All the laws made to guard the purity of elections, will be destroyed by it. Some Innovator may perhaps say, But there shall be an oath, and the sheriff shall look to it. Shall he? Then I believe no gentleman of character will serve the office of sheriff. The wranglings concerning freeholds, copyholds, tenures, &c. will be infinite. In order to preserve himself from Newgate, he must entrench himself behind a number of lawyers. In the bill that extends the right of election, I hope some gentleman will be kind enough to move, that a clause may be inserted, That none but pettyfogging attornies, who have been struck off the lists by the courts in Westminster-hall, shall hereafter be eligible to serve the office of sheriff,

Of the Same, by CITIES and BOROUGHS.

The same gentlemen who declare for the emancipation of copyholders, are also the advocates of another proposition; which is, to add *one hundred* knights to the present representation of the Counties, and to amputate *fifty* Boroughs, that the number of members of parliament may continue what it is. But as neither the *distribution* of the knights, nor the *names* of the Boroughs are given, we can only reason upon the proposition in the gross. It is however to be recollected, that the other part of the Speculators, I mean those who lay claim to a *general* right of election for *all* the people, have divided the Cities and Boroughs into classes (not very accurately), according to the number of citizens, or electors, there are in each; and from these premises, we may presume, that the Boroughs meant or intended to be cut off, are those in which there is the smallest number of electors. And to give this plan an appearance of wisdom and justice, they say, that it was lord Chatham's plan.

Great respect will always be paid to lord Chatham's name; but to ensure that respect to this plan, it ought to be proved, or satisfactorily shewn, that it is lord Chatham's.

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There is one part of it, that relative to the Boroughs, which, I can take upon me to say, from the very best authority, is most unjustly ascribed to lord Chatham. He never entertained an idea so illiberal. He had himself been member for Old Sarum, Seaford, Aldborough, &c. Where this plan of his lordship's is to be found, the Speculators have not informed us. I have diligently examined (I believe) all the books, pamphlets, and papers, which they have published upon this subject; and have not been able to find it in any of them. It is true, that it is mentioned in several of them; but it is always in such a way, that it is never more than the writer's account of his lordship's opinion; or of the sense, in which he wishes the reader to take, and understand it. It certainly would have been more candid, as well as more fair, to have given his lordship's words, as near as they could have been remembered; and since several of these writers pretend to have heard them, it is wonderful they have not done it. I will help them out of this difficulty.

A gentleman who was much esteemed by the Grenville family, particularly by the late noble head of it, and who has for some time been amusing his leisure, with collecting materials,

terials, principally from private gentlemen; for the history of lord Chatham's life, (I do not mean the contemptible history which has been published in order to forestal the market) has a MS. copy of his lordship's speech, in which (towards the conclusion) is all that his lordship ever said publicly upon this subject.

This speech was taken by a gentleman of very distinguished character and abilities; but was never published. By the possessor's leave, I have made an extract of all that *part* of it which can be said to be connected, in any degree, with the subject under consideration. It was made in the House of Lords on the 22d of January 1770, upon lord Rockingham's motion for appointing a day to take into consideration the state of the nation.

“ I find myself compelled, my lords, to return to that subject, which occupies and interests me most; I mean the internal disorder of the constitution, and the remedy it demands. [Here is a very able reply to the duke of Grafton upon the conduct of the public offices respecting the papers and accounts of the civil list.] But, my lords, the waste of the public money is not of itself so important, as the pernicious purpose, to which we have reason to suspect that money
has

has been applied. For some years past there has been an influx of wealth into this country, which has been attended with many fatal consequences, because it has not been the regular natural produce of labour and industry. The riches of Asia have been poured in upon us, and have brought with them not only Asiatic luxury, but I fear Asiatic principles of government. Without connexions, without any natural interest in the soil, the importers of foreign gold have forced their way into parliament, by such a torrent of corruption as no private hereditary fortune could resist. My lords, I say nothing but what is within the knowledge of us all. The corruption of the people is the great original cause of the discontents of the people themselves, of the enterprises of the crown, and the notorious decay of the internal vigour of the constitution. For this great evil some immediate remedy must be provided; and I confess, my lords, I did hope, that his majesty's servants would not have suffered so many years of peace to elapse, without paying some attention to an object which ought to engage and interest us all. I flattered myself I should see some barriers thrown up in defence of the constitution, some impediment formed to stop the rapid
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progress of corruption. I doubt not we all agree that something must be done. I shall offer my own thoughts such as they are to the consideration of the House; and I wish that every noble lord who hears me, would be as ready as I am, to contribute his opinion to this important service. I will not call my own sentiments crude and indigested. It would be unfit for me to offer any thing to your lordships, which I had not *well considered*; and this subject I own has *long* occupied my thoughts. I will now give them to your lordships without reserve.

“ Whoever understands the theory of the English constitution, and will compare it with the fact, must see at once how widely they differ. We must reconcile them to each other, if we wish to save the liberties of this country. We must reduce our political practice, as nearly as possible to our political principles. The constitution intended that there should be a permanent relation between the constituent and representative body of the people. Will any man affirm, that, as the house of commons is now formed, that relation is in any degree preserved? My lords, it is not preserved; it is destroyed. Let us be cautious, however, how we have recourse to violent expedients.

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“ The Boroughs of this country have properly enough been called, the rotten parts of the constitution. I have lived in Cornwall, and without entering into an invidious particularity, have seen enough to justify the appellation. But in my own judgment, my lords, these Boroughs, corrupt as they are, must be considered as the natural infirmity of the constitution. Like the infirmities of the body, we must bear them with patience, and submit to carry them about with us. The limb is mortified, but *amputation might be DEATH.*

“ Let us try, my lords, whether some gentler remedies may not be discovered. Since we cannot cure the disorder, let us endeavour to infuse such a portion of new health into the constitution, as may enable it to support its most inveterate diseases.

“ The representation of the Counties is, I think, still preserved pure and uncorrupted. That of the great Cities is upon a footing equally respectable; and there are many of the larger trading towns, which still preserve their independence. The infusion of health which I now allude to, would be to permit *every* County to elect *one* member more, in addition to their present representation. The knights of the shires approach nearest to the constitutional
repre-

representation of the country, because they represent the soil. It is not in the little dependent Boroughs, it is in the great Cities and Counties that the strength and vigour of the constitution resides, and by them alone, if an unhappy question should ever arise, will the constitution be honestly and firmly defended: I would encrease that strength, because I think it is the only security we have against the profligacy of the times, the corruption of the people, and the ambition of the crown.

“ I think I have weighed every possible objection that can be raised against a plan of this nature ; and I confess I see but one, which to me, carries any appearance of solidity. It may be said perhaps that when the act passed for uniting the two kingdoms, the number of persons who were to represent the whole nation in parliament was proportioned and fixed on for ever——That this limitation is a fundamental article, and cannot be altered without hazarding a dissolution of the Union.

“ My lords, no man who hears me can have a greater reverence for that wise and important act, than I have. I revere the memory of that great prince, who first formed the plan, and of those illustrious patriots, who carried it into execution. As a contract, every
article

article of it should be inviolable. As the common basis of the strength and happiness of two nations, every article of it should be sacred. I hope I cannot be suspected of conceiving a thought so detestable, as to propose an advantage to one of the contracting parties at the expence of the other. No, my lords, I mean that the benefit should be universal, and the consent to receive it unanimous. Nothing less than a most urgent and important occasion should persuade me to vary even from the letter of the act; but there is no occasion, however urgent, however important, that should ever induce me to depart from the spirit of it. Let that spirit be religiously preserved. Let us follow the principle upon which the representation of the two countries was proportioned at the Union: and when we encrease the number of representatives for the English counties, let the shires of Scotland be allowed an equal privilege. On *these terms*, and while the *proportion* limited by the Union is *preserved* between the two nations, I apprehend that no man, who is a friend to *either*, will object to an alteration, so necessary for the security of both. I do not speak of the authority of the legislature to carry such a measure into effect, because I imagine no man will dispute it. But

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I would not wish the legislature to interpose by an exertion of its power alone, without the chearful concurrence of all parties. My object is the happiness and security of the two nations, and I would not wish to obtain it, without their mutual consent." [Here follows a number of most elegant compliments to lord Rockingham, whose motion on this day lord Chatham seconded. The whole speech lasted near three hours.]

The admirers of lord Chatham, will here observe, that his lordship lays no blame to the Septennial Act; he complains not of the duration of parliament, but the corruption of the people: he does not even hint at wishing for any alteration in the right of election; if he had been of opinion, after the mature consideration which he had given to the subject, that copyholders ought to have a right of election, he would, undoubtedly, have mentioned it, when he spoke of the County Representatives. He must have considered the old right of election, as it now stands, as the corner-stone of the constitution; that it could not be changed without bringing down the whole building. And upon the point of equal representation, as it is called, he is also silent; but, it is a fair inference, that in giving *one*
knight

knight more to *each* County, his lordship most unequivocally declares that *equal* representation, in the sense of the Speculators, is no part of his plan. And lastly, with regard to the Boroughs, which make the foundation of the whole pretence for innovation, his lordship is very explicit and very pointed against the *amputation* of *any* of them.

This business of the Boroughs furnishes the Speculators with the greatest part of their arguments ; and to do them justice, it must be confessed, that they have made the most of it. I have heard of a cunning tricking lawyer gaining an advantage over his adversary, by a mistake in the declaration ; though the justice and equity of the cause, were not in the least altered by it. Next to the opinion of lord Chatham, I beg leave to introduce that of the celebrated JUNIUS ; who, though not here at present, cannot be long absent ; for Asia, though large, is too limited for his mind——if this fugitive drops into his hand, he will know the writer.

JUNIUS to the Supporters of the Bill of Rights.

“ As to the cutting away the rotten boroughs, I am as much offended as any man, at seeing so many of them under the influence
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of the crown, or at the disposal of private persons; yet I own I have both doubts and apprehensions, in regard to the remedy you propose. I shall be charged, perhaps, with an unusual want of political intrepidity, when I honestly confess to you, that I am startled at the idea of so extensive an amputation. In the first place, I question the power *de jure*, of the legislature to disfranchise a number of boroughs upon the general ground of improving the constitution. There cannot be a doctrine more fatal to the liberty and property we are contending for, than that which confounds the idea of a *supreme* and *arbitrary* legislature. I need not point out to you, the fatal purposes to which it has been, and may be applied. If we are sincere in the political creed we profess, there are many things which we ought to affirm. cannot be done by kings, lords, and commons. Among these I reckon the disfranchising a borough with a general view to improvement. I consider it as equivalent to *robbing* the parties concerned of their freehold, of their birthright. I say, that although this birthright may be forfeited, or the exercise of it suspended in particular cases, it cannot be taken away by a general law, for any real or pretended purpose of improving the constitution.

constitution. *I believe there is no power in this country to make such a law.* Supposing the attempt made, I am persuaded you cannot mean that either king or lords should take an active part in it. A bill which only touches the representation of the people, must originate in the House of Commons, in the formation and mode of passing it. The exclusive right of the Commons must be asserted as scrupulously as in the case of a money-bill. Now I should be glad to know, by what kind of reasoning it can be proved, that there is a power vested in the representative to destroy his immediate constituent: from whence could he possibly derive it? A courtier, I know, will be ready enough to maintain the affirmative. The doctrine suits him exactly, because it gives an unlimited operation to the influence of the crown. But we must hold a different language. It is no answer to me to say, that the bill, when it passes the House of Commons, is the act of the majority, and not of the representatives of the particular boroughs concerned. If the majority can disfranchise ten boroughs, why not twenty? Why not the whole kingdom? Why should not they make their own seats in parliament for life? For argument's sake, I will
now

now suppose, that the expediency of the measure, and the power of parliament, were unquestionable, still you will find an unsurmountable difficulty in the exclusion. When all your instruments of amputation are prepared——when the unhappy patient lies bound at your feet; without the possibility of resistance, by what infallible rule will you direct the operation? When you propose to cut away the rotten parts, can you tell us what parts are perfectly sound? Are there any certain limits, in fact, or theory, to inform you at what point you must stop—at what point the mortification ends?—I have but one word to add;—I would not give representatives to those great trading towns, which have none at present. If the merchant and the manufacturer must be *really* represented, let them become freeholders by their industry, and let the representation of the county be encreased. You will find the interruption of business in those towns, by the riots and cabals of election; too dear a price for the nugatory privilege of sending members to parliament.”

These arguments, and these reasons, are all of them so weighty, that I shall not presume to add any thing to them; except the bare mention of the simple fact; of the bo-

rough of Orford being transferred to the interest of lord Hertford, during lord Chatham's last administration; which shews his lordship's opinion of private, or family boroughs; that they were less dangerous, in the hands of a respectable family, deeply interested in the prosperity of the country, than if under the influence of the crown, or open to great temptation. He certainly had no idea of *amputation*. It would be better if all the boroughs in England were in private hands; for then the agents of Nabobs, and others, could not be elected. The proprietor of a borough, has a great interest in the country: if the country is ruined, he is ruined with it: he will not, therefore, countenance the knight of industry, or the foreign agent. Does any body imagine, that Brown Dignan could have polled the same number of votes at Amer sham, which he did at Hindon; or that the same species of application would succeed at Cockermouth, which is known to have been practised at Cricklade? Tell me not of Gatton and Sarum, they have nine times in ten, returned more able members of parliament, than the scot-and-lot boroughs of Shaftesbury and Aylesbury. But I will not enter into an invidious particularity. Gatton, say Browne
Willis,

Willis, vol. I. page 12, "was made a borough by Henry VI, and has continued returning ever since the 29th of his reign ; notwithstanding in the indenture I have seen in the Rolls chapel, anno 33 Henry VIII. there is specified to be only one inhabitant in the said borough."

If there had been no family boroughs, how was the late earl of Chatham to have got into parliament, when a young man? and many others, who, like him, have been more than an ornament to their country. But I will not appeal to the dead, or to former times ; permit me to ask, How was his son, the present Chancellor of the Exchequer, to have got into parliament, if these boroughs had been amputated, or the right of election laid open? He lost his election for Cambridge. Until these young men have appeared in parliament, their parliamentary talents are not known to their country. While there are old men, with ambition and interest in the several localities, the young men will find it difficult to rise. Our Reformers are chiefly old men, and if *all* the people, in their respective vicinages had a right to vote, probably some of them might come into parliament. A parliament of drones is more probable to be at the de-

otion of the minister, than those active young minds, who are curious in inquisition, and zealous in investigation.

A few words may be said respecting the gentlemen from the West and East Indies (all of whom are not plunderers): their long residence abroad has precluded them from the possibility of making any large acquaintance at home; yet their great property, and perhaps thorough knowledge of the British possessions they have lived in, well entitle them to a seat in parliament, when they come to England. If the empire is injured, they are the first who are affected. Can there be either justice or policy in any plan which deprives parliament of the assistance of these gentlemen? If the boroughs are disfranchised, and the right of election made general, how are these gentlemen to come into parliament? Will the voters of any locality elect a stranger, in preference to a gentlemen, well known in the neighbourhood? When the interests of Jamaica or Bengal are under consideration, can the gentleman who has never been out of England, support, or oppose a commercial regulation, so ably or properly as the gentleman who has lived there?

These

These boroughs may be compared to the specks on the sun. They may be blots, but the luminary is too glorious and brilliant, to be refined or purified by modern astrologers. The English constitution is a fabric too beautiful to be repaired by these pseudo-architects; who, by abolishing the boroughs, and giving a general right of election, would thereby exclude all the young men of abilities from parliament, as well as all the trading interest; and confining all representation to the illiberality of local influence, would perpetuate a tyranny, more intolerable than the bitterest of the feudal; because more narrow and selfish in its principles. They know not what they say; to correct one evil, they would establish a greater.

There is an argument made use of by Speculators, in favour of a general right of election, which, on the first reading, seems a little plausible. They say, that if the right of election were general, that is, in all the inhabitants, there would be less corruption; because it is *impossible* for any candidate to bribe *all* the people. They are here speaking of cities and large towns, in which the inhabitants amount to several thousands. Admitting the impossibility to the fullest extent,
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and admitting likewise, for a moment, all the fine speculations, founded upon, or derived from, this splendid promulgation of virtuous principles and virtuous actions ; let us try these arguments by facts. Westminster is the place, where the right of election comes nearest to the proposition of all persons having a right to vote. Every housekeeper there has a right to vote for members of parliament ; and if there are two, or more partners, (even ten or a score) in the same house, they have *all* a right to vote for the *same premises*. This is pretty general. Now all those gentlemen who know any thing of a contested election in Westminster, must know that it is one of the most expensive elections in England ; and the reason that the elections in Westminster are not oftener contested, is the just dread of the enormity of the expence. The Lords Mountmorres and Mahon were never suspected of bribing any one, yet their expences exceeded the most extravagant calculation. The expences of Mr. Fox's first election were so considerable, that they are not all discharged to this day.

Wherever the number of electors is considerable, contested elections are expensive. In London, where it would be impossible to give
to

to all the inhabitants the right of election, it is, by the wisdom of our ancestors, and confirmed by special act of parliament, given to *Liverymen only*: yet ask Mr Beckford's family, what were the sums the expences of his elections amounted to? If the madness of any parliament were to make the right of election in London general, who would be a candidate? and what would the livery companies say? Mr. Alderman Sawbridge knows not what he is doing, when he promotes the thing. The liveryman whom it has cost from twenty to sixty pounds, to come upon the livery, has little obligation to him for his attempts to absorb his franchise; and put him on a level with the occasional inhabitant from York or Bristol. Who will put a younger son to trade, which must be done in cities or towns, and give a large apprentice-fee, if when the youth is out of his time, he has no franchise, or privilege, superior to the day-labourer? The franchises and privileges of our cities and towns have given infinite encouragement to industry and ingenuity. Great statesmen and great warriors have thought it an honour to receive them. And shall we, for a speculative whim, repeal the several acts of parliament ascertaining the rights of electors, in
different

different places, and take away the charters of all the corporations in England? The man who asks it, is a proper object for Bedlam.

Do the Speculators imagine that the livery of London, three-fourths of whom are men of opulence, will tamely bear to be disfranchised; or, what is the same thing, to be obscured, absorbed, and ousted by every foreigner and housekeeper in the city, who has not even taken up his freedom, being allowed to vote? The attempt may create a more dangerous, because a more regular, resistance, than lord George Gordon's mob.

If *every* man in London had a right to vote, this general right would not only influence the elections in the capital, but extend very considerably into the country; for many of the inhabitants of London, having votes elsewhere, they would elect more than their share. The capital is estimated to contain at least one seventh of the inhabitants of the kingdom; consequently they would elect one seventh of the representatives. The capital would be kept in continual confusion: every winter there would be instructions to their representatives. Parties would be daily formed, upon principles of interest or passion; some for, some against the instructions, &c. By such a mode, the inhabitants

inhabitants might be said to be in some sort represented, but will any man say that the *property* would?

There never was a *general right* of election. The first idea of parliament, was by a *selection*. The original barons was a *selection*. The first writs for Counties were directed to a *selection*; then to particular Cities and Towns, what was but to a *selection*? A general right was never supposed to exist, from the first day to the present hour. It was never asked, perhaps never thought of before. A list of the places which formerly sent representatives, and which, by their own consent, or desire, have been excused, might put our modern Speculators for general representation, to the blush. But here it is.

Newbury, <i>Berks</i>	Sherborne
Ely, <i>Cambridgesh.</i>	Chelmsford, <i>Essex</i>
Polurun, <i>Cornwall</i>	Bromyard, <i>Herefordsh.</i>
Egremont, <i>Cumberland</i>	Lidbury
Bradnesham, <i>Devon</i>	Ross
Crediton	Berkhampstead, <i>Herts.</i>
Fremington	Bishops-Stortford
Modbury	Tunbridge, <i>Kent</i>
South-Moulton	MeltonMowbray, <i>Leic.</i>
Exmouth	Spalding, <i>Lincoln</i>
Teignmouth	Wainfleet
Lidford	Bamburgh, <i>Northum.</i>
Torrington	Canebrig
Blandford, <i>Dorsetsh.</i>	Burford, <i>Oxon</i>

Dedington	Overton
Chipping-Norton	Farnham, <i>Surrey</i>
Whitney	Kingston
Dunster, <i>Somersetsh.</i>	Bradford, <i>Wilts</i>
Stoke-Cursy	Mere
Watchet	Dudley, <i>Worcestersh.</i>
Axbridge	Kidderminster
Chard	Perthore
Langport	Pickering, <i>Yorksh.</i>
Montacute	Jarvall
Were	Tickhill
Alresford, <i>Hants</i>	Ravenfer
Aulton	Doncaster
Basingstoke	Whitby :
Fareham	

And the Boroughs of Dunstable, *Bedford*; Glastonbury, *Somerset*; Odyham, *Hants*; and Highworth, *Wilts*; though summoned never complied with the sheriff's precept. Manchester, Leeds, Halifax, and Wisbech, sent representatives to Cromwell's parliament, but neither before nor since.

All the inhabitants of these places paid their respective shares of every new impost; but did not wish, or want, to be any longer particularly represented. They were perfectly satisfied with the general representation of the country; and this was the sense of parliament, when Charles II. had granted several charters, the Commons declared, that the *elections* made by virtue of that prince's charters, were void. The people did not desire to have their elections repeated; they did not want to see their towns

towns kept in bustle and confusion, by contending candidates. Ask the people of property at Manchester, what would be the effect of a contested election in that town ; and they will answer, that all their journeymen would be drunk, every day, six months before the election, and six months after ; and that the mischief would extend to Bolton, Bury, Rochdale, and all the lesser manufacturing towns and villages in the neighbourhood. It would be the same at Birmingham.

In the Lords Journals, Vol. XVII. p. 699, we find the right of election defined, and ascertained, which never could be, if it had been general. The words are these : “ The right of election is a legal interest, incident to the freehold, or founded upon custom, or the letters patents of your Majesty’s royal ancestors, or upon particular acts of parliament.”

To be properly consistent, if the right of election ought to be made general, that is given to all the people, according to the claim ; the right to become candidates, ought likewise to be made general. An extention of one right and not the other, is *partial* justice. If *all* have the privilege of voting, they ought *also* to have the privilege of making their own free choice. It would be the highest injustice to

give to *all* the right of electing, and confine the objects of election to the present limited qualifications. The present system of representation, was formed upon the principle of *selecting* gentlemen for representatives, and *freeholders* and *freemen only* for electors. But if the right of electing is made general, the freedom of choice ought to be the same. The justice is no more necessary in one case, than in the other. If one law is an infringement of the rights of the people, the other is the same. There can be no justice done to the people at large, in withholding a free and general choice, if you give a general right. The law, which fixed the qualification of the representative, is no more valid, than the law which fixed the qualification of the voter.

Every gentleman will make his own reflections upon these *claims*. I wish not to *inflame*, but to *caution*. Parliament is too low already. The admission of *all*, or *any* of the claims, which I have mentioned, would make it lower. The measure and the consequence are inseparable.

If we admit any innovation to be made in the present parliamentary constitution, the first persons who would claim, and unquestionably
would

would have a good claim, would be the *national* proprietors of the public funds, and the members of the monied companies, the Bank, East-India, &c. These possessing a species of property, which was unknown to our ancestors, at the time that representation was given, have, as such, never been represented. Their weight and consequence at this time, entitle them to the first consideration; yet they have never been known to complain. They are too wise not to know, that innovations in the constitution, hazard the permanency, the security, and the happiness of it. If the holders of such immense property, can put a confidence in parliament, chosen by the *present* rights of election, surely the journeyman taylor and carpenter ought. But the intemperate zeal of the Speculators, would animate these low people with the idea of possessing a privilege, which they neither understand, nor are capable of making a proper use of. In short, if it is intended to sow the seeds of American resistance in this island, I know of no tillage that may in time be so productive. The Speculators have manured well. I have been told, that they have not printed and dispersed less than half a million of their various pamphlets, and papers, in different shapes and sizes.—

fizes. — Is not all this too much for *pure* philanthropy ?

But I will conclude in the words of lord Shaftesbury, who wrote thus to his friend the first lord Molesworth: “ There is a concealed party of sober and honest men ; who, as few as they are, and as little noisy, have a much greater part in the influence of affairs, than ministers are apt to think.”

F I N I S.

